



2300 Lake Elmo Drive
Billings MT 59105
June 25, 2010

NOTICE OF DECISION for Yellowstone River State Park Campground Project

TO: Environmental Quality Council
Director's Office, Dept. of Environmental Quality
Montana Fish, Wildlife & Parks*

Director's Office	Lands Section
Parks Division	Design & Construction
Fisheries Division	Legal Unit
Wildlife Division	Regional Supervisors

Mike Volesky, Governor's Office *
Sarah Elliott, Press Agent, Governor's Office*
Maureen Theisen, Governor's Office*
Montana Historical Society, State Preservation Office
Janet Ellis, Montana Audubon Council
Montana Wildlife Federation
Montana State Library
George Ochenski
Montana Environmental Information Center
Wayne Hirst, Montana State Parks Foundation
FWP Commissioner Shane Colton*
Montana Parks Association/Our Montana (land acquisition projects)
Richard Moore, DNRC Area Manager, Southern Land Office
County Commissioners
Other Local Interested People or Groups
* (Sent electronically)

BACKGROUND, DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

In 2008, FWP acquired approximately 4,600 acres (3,976 deeded, 621 leased state school trust) east of Billings that encompasses the Yellowstone River State Park and Wildlife Management Area. The property was formerly known as the Circle R Ranch. Of the 4,600 acres, 200 acres was purchased for development and use as a state park.

FWP's intention to develop a campground was referenced during the 2008 acquisition process, including in the acquisition Environmental Assessment, final Decision Notice and

Management Plan. This included the commitment to do further analysis for park development. Recently, Montana Fish, Wildlife and Parks proposed development of a campground, overlook and associated roads on the Parks portion of this property in an Environmental Assessment issued on March 16, 2010. This Decision Notice is the result of that analysis.

An entrance sign, traffic counter and entrance cattle guard have been placed on the park property since acquisition. Weed control and planting of a cover crop have been implemented on the bottomland where development is proposed. Prior to acquisition, this area had been dry-land farmed and consisted of some residual alfalfa, bare soil and some weed species.

Proposed road developments would include upgrading of the existing road from the property entrance to the campground location. The proposed campground is accessible from Bundy Road, then west to the property boundary via the Bozeman Trail Road. This proposal must be submitted to Yellowstone County for permitting under the sub-division review process as required by state law. Issuance of a sub-division permit will be necessary for the campground development to proceed.

Proposed development plans for the campground includes four loops with 37 campsites, four vault latrines, and a campground host site. Electricity would be extended into the campground area. The graveled campground loop roads will provide access to pull-through and back-in style campsite parking. Campsites would include a picnic table and fire ring, as well as electrical hookups (pedestals) for those visitors who desire the opportunity to use electricity. The access road connecting the campground loops would be designed to accommodate two-way traffic. Latrines would be provided in each campground loop for basic sanitary services.

To provide water for the campground, FWP proposes to drill a well to provide potable water for campground hosts, campers, and irrigation for landscaping.

The proposal included an overlook area located on the bluff above the river and a comfort/shower building located in the campground area.

FWP proposed three alternatives in the environmental assessment.

Alternative A: No Action, FWP does not initiate improvements at the Park

FWP would not embark on any of the proposed development elements within the new state park area. The park would remain in its current condition. Camping activities would continue to be prohibited. Access to the river bottom would be accessible via the existing road system and the overlook area would not be accessible by vehicle. FWP would continue to manage the area for wildlife habitat and allow public access for day-use recreation activities under the guidance of the Circle R Property Management Plan (encompasses Yellowstone River State Park and Yellowstone Wildlife Management Area).

Alternative B: FWP proceeds with basic development of the campground, access road, and overlook areas within Yellowstone River State Park (Proposed Action)

FWP would implement the proposed development actions for the establishment of a formal campground within the park and overlook facilities as previously described. Current funding will not allow for construction of these facilities at this time.

Alternative C: FWP proceeds with the developments of the campground area and the access road

In this alternative, FWP would postpone the construction of the overlook facilities until additional funding became available, but would proceed with the development of the campground and the construction of the campground access road as described.

PUBLIC COMMENT

In compliance with Montana Environmental Policy Act (MEPA), FWP completed an Environmental Assessment including a public involvement process. Public participation is not intended to simply measure those in favor of or opposed to a proposal, but is a mechanism to receive and consider substantive comments, to reconsider any impacts of the proposal and to re-evaluate or create new mitigative proposals.

The public comment period for this EA opened on March 16, 2010 and was originally to close on April 19, 2010. The draft EA was available on the FWP website under Public Notices (www.fwp.mt.gov); comments could also be made or by calling (406) 247-2940, or by email. Copies of the EA were also available at the Region 5 Headquarters (2300 Lake Elmo Drive, Billings, MT). The draft EA was mailed to individuals, government agencies, non-government organizations, and local legislators. Public notices were posted in the Billings Gazette and the Helena Independent Record. The development proposal was featured in articles in the Billings Gazette on April 14 and in the Yellowstone County News on April 9, 2010.

In response to public requests, a public meeting was scheduled and the comment period was extended to May 7, 2010. FWP issued news releases to regional media outlets and the Associated Press on April 23, 2010 regarding the extension and public meeting.

The public meeting regarding the proposal was held on May 4, 2010 at the Region 5 Headquarters in Billings to take oral and written comments and to answer questions. 23 individuals attended the public meeting and 16 individuals made comments. Comments were recorded and a written summary created. Hard copies of the EA were available to all who attended the meeting.

This Decision Notice addresses the concerns and issues raised during the public input process. The existing Management Plan issued with the 2008 acquisition Decision Notice will continue to be applied.

FWP responses to public inquiries or concerns follow. A complete copy of all public comments, news articles and news releases are included as an attachment to this Decision Notice.

RESPONSE TO PUBLIC COMMENTS

Public comments have been summarized by category based on the issues raised and are presented along with FWP responses. Complete copies of public comments can be found on the FWP website (www.fwp.mt.gov) under public notices.

Written comments, either via electronically, in person or by mail, were received from 33 individuals and/or parties. Three parties provided comments via telephone conversations. Twenty-three individuals attended the public meeting on May 4th, 2010 at the FWP Region 5 Headquarters in Billings; where sixteen individuals provided oral comments.

IN SUPPORT OF DEVELOPING A STATE PARK AND CAMPGROUND

Ten individuals were in support of the campground development as proposed. Reasons for support included economic benefit to the local economy, the need for public overnight camping close to Pompey's Pillar National Historic Landmark, the need in general for camping in the area, the development would provide for wildlife viewing, the proposal would provide an opportunity for hunters who want to camp, and that a developed campground would provide better opportunity to control and manage for fires.

Comments regarding Fish, Wildlife and Parks and the Parks Division's experience in managing recreational developments and the agency's ability to manage issues and resolve problems with recreational use were also provided as support for the development.

Response: FWP is in agreement with these supportive comments.

NOT IN SUPPORT OF DEVELOPING A STATE PARK AND CAMPGROUND

Twenty-three individuals were not in support of the proposed development. 10 respondents specifically supported the "no action" alternative. A list of concerns raised and FWP's response follows each.

Campground Location

It was suggested that a better location could be found for a campground, including Pompey's Pillar, Bundy Bridge FAS, or John Dover Park in Billings. Concerns included that this was the "quiet side" of the river and that the campground should be on the south side of the Yellowstone River.

Response: This specific parcel of property was purchased for use and development as a State Park as detailed in the acquisition Decision Notice of June 6, 2008. The development will change the land use in the area and have an impact on neighboring landowners; however, in consideration of the demand for outdoor recreation, park and campground development will positively benefit the general public as whole. Within the FWP property, the proposed location best reflects both the Yellowstone River and the rim rocks environment, providing visitors the best opportunity to experience these diverse outdoor environments.

None of the suggested alternative locations are owned by Fish, Wildlife and Parks. A campground was considered by the Bureau of Land Management through a management planning process at Pompey's Pillar but due to its sensitive cultural resources it is limited to

day use only. The BLM land at Pompey's Pillar is part of the upland game bird program, providing additional opportunity in the area for bird hunting. Bundy Bridge, owned by the BLM and operated as a Fishing Access Site through a cooperative agreement, is an island and thus unsuitable for campground development. Dover Park is intended for day use and trail development only and not owned or controlled by Fish, Wildlife and Parks.

Impact on Wildlife in General including Hunting

Comments included the impacts on wildlife in general, the affect the development will have in displacing wildlife and concerns for several species including Great Blue Herons, Bald Eagles and Sandhill Cranes. The potential impact on wildlife or its displacement indicated in the EA was disputed.

Response: FWP agrees that there will be minor impacts to wildlife in the immediate developed area. In addition, construction activities may displace some wildlife due to noise and traffic activity. When considering the property as a whole, the small acreage to be developed will not measurably change the diversity or abundance of wildlife species. There are no Bald Eagle nests within 1/4 miles of the proposed development. This is greater than the recommended mitigation for existing nests. There is a Great Blue Heron Rookery in the vicinity of the proposed campground. Monitoring of this rookery during construction will be done if during nesting season.

FWP will place no additional restrictions on hunting in the WMA. During the associated hunting seasons, it is anticipated that most of the camping will be by hunters. Signage and parks staff will inform park users of current hunting seasons. There will be no shooting allowed in or from the developed campground.

Impact on Game bird Enhancement Area

The upland game bird program, in partnership with Pheasants Forever and the BLM are in the process of developing upland game bird enhancement on the WMA in pivot-irrigated areas, west of the proposed campground. Members of the local Pheasants Forever chapter as well as other individuals commented that the campground development and operation would negatively impact both the number of pheasants in these areas as well as hunter's ability to harvest them. Comments included questioning the proposal as contrary to FWP's mission and detrimental to the partnership formed to develop the WMA's potential to produce pheasants. There were questions of why FWP was converting habitat to a developed area.

Response: This property was purchased and subsequent actions taken with the understanding that this area was to be utilized as a state park and specifically, to provide for recreation, including camping. The campground is outside of the irrigated area and so will not restrict currently planned habitat work. The core habitat area for pheasants and deer is outside of the campground area. When purchased, the area proposed for development was formerly dry land farmed, and very little beneficial habitat existed. Subsequent management has controlled weeds and established some grass cover.

We agree that the campground and associated development will have an effect on ground nesting birds in the vicinity of the campground. Those impacts are difficult to quantify,

however. Mitigation will reduce but not entirely eliminate those impacts. Impacts will include limited direct mortality resulting from nest abandonment, and some displacement in the proximity of the campground. Construction activities will have some impact on wildlife as well, but that disturbance will be limited to the active construction period.

There will be a buffer zone of 85 – 100 yards between the food plots and the proposed campground. This will be planted with shrubs to create a vegetative buffer. Fencing will be considered to indicate wildlife cover and nesting areas. There will be signs to direct visitors to avoid the nesting areas during nesting season. Dogs will be required to be on a leash at all times in the campground and adjacent park area. It is also anticipated that information about the bird program will be provided to campground users as an interpretive opportunity to increase general public knowledge of the upland game bird program.

Restrictions on public use and pets in the irrigated food plots and nesting cover are the responsibility of the Wildlife Division and could be implemented if determined necessary by the Wildlife Division.

Resource Damage

The sagebrush grassland portion of the WMA is a fragile ecosystem and cannot withstand the impact of hikers, bikers, birders, horseback riders and hunters that such a development would bring.

Response: Public use regulations will be in place to manage and mitigate impact to natural and cultural resources. Travel off of the main road on the WMA will be restricted to foot only. Increased use of the WMA due to the campground will be dispersed over the large area of the WMA and adjacent BLM property. Any future trails on the park property would avoid sensitive areas and direct visitors in a manner to minimize their impacts. Designating trails in durable areas is a proven method of concentrating use and minimizing widespread impacts over dispersed areas.

Fire Danger/ Management

Many of the area's property neighboring landowners have concerns over increased fire danger due to increased use and campground development. The general area has a long history of fires, many of which have been started by natural causes such as lightning. The area is a long way from fire protection resources.

Response: FWP properties that are not covered under direct fire protection by a wild land agency are covered by the County under a cooperative agreement with the state. The County agrees to provide protection to all non-forest district state properties in exchange for the state providing the county with training, equipment, and some planning assistance. FWP makes payments in lieu of taxes (PILT) to counties on all FWP properties except State Parks, Fish Hatcheries, Bird Farms, and in counties where FWP owns less than 100 acres. The state, through the Department of Natural Resources, also agrees to assist the county when a fire is too big to handle, and assists the county for that particular firefighting effort as part of their supplemental appropriations request. The Worden Volunteer Fire

Dept. is under contract with Yellowstone County for wild land fire suppression in the area of this property.

During the fire season, FWP attends weekly fire conferences with County, State, and Federal entities to discuss the current fire danger and assess appropriate actions relative to potential fire restrictions. These restrictions may include closure of the site to public use.

Vehicles will be restricted to developed roads. Fires will only be permitted in developed fire rings within the campground. A 10,000 gallon water tank is available at the western end of the WMA for fire-fighting use. FWP has been working with the Worden Volunteer Fire Department and the BLM on fire management issues including joint training and joint use of equipment. Any fire-fighting agencies have access to the tank on the west end of the property; they also have access to the property as a whole. There would be the opportunity to stage additional firefighting equipment at the campground. Staff at the state park would be trained in emergency procedures and provide preventative measures such as monitoring campfire use and educating visitors during high fire danger periods.

The following statute covers fire liability issues:

MCA 50-63-103. Liability of offender for damages and costs. A person who sets or leaves a fire that spreads and damages or destroys property of any kind not belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing the spread of the fire.

Cost of Development

Comments were made concerning the high level of cost of the campground development including the access road and county road costs as well as the primary development costs. It doesn't seem to be right to make such a large investment at this time of economic downturn. Too big of an investment for 37 campsites.

Response: Development will be done to a high standard to avoid high repair costs in the future and to provide the highest quality recreational experience possible. This investment will be amortized over a long period of time and upon completion this campground will be a revenue source for the Montana State Parks. A 2002 economic impact study of Montana State Parks found that close to \$180 million in expenditures was attributable to State Park visitors, with \$116 million of that being spent in the area close to a park. Non-resident visitors generated \$92.5 million in additional economic activity throughout Montana. Combined with other local attractions such as Pompey's Pillar, a new campground and park would have a positive benefit to the local economy. Visits to state parks hit a record high of over 2 million visits in 2009. The cost and extent of any potential county road improvements is still being evaluated.

Level of Development

Comments were received that the proposed campground development would not be primitive as described in the acquisition process. That development including electrification would increase user fees beyond what the general recreating public would want to pay.

Response: The proposed development is within the norm for public campgrounds. Visitors have an expectation that basic services will be provided and have shown to be willing to pay for the added benefits of electricity. The proposed level of development provides for basic camping services while not duplicating the higher level of amenities and costs at private campgrounds.

Camping fees are established by the Fish, Wildlife and Parks Commission in the Parks Biennial Fee Rule through a public process.

Environmental Assessment is Wrong Level of Analysis

Comments were made that an Environmental Impact Statement was the proper level of analysis rather than an Environmental Assessment.

Response: The Montana Environmental Policy Act (MEPA) requires agencies to prepare a written environmental review that is available to the public. MEPA directs state agencies to ensure that the public is informed of, and participates in, the decision-making process.

MEPA requires that the level of analysis and the degree of public involvement increase as the significance of the potential or identified environmental impacts increases. FWP used the guidance of 12.2.431 ARM (Administrative Rules of Montana) to evaluate the level of significance of potential impacts on the quality to the human environment based on severity, duration, geographic location, the quantity and quality of each resource, and the potential for conflict to determine that an EA was the appropriate level of analysis.

The MEPA process identifies the possible environmental impacts of a proposed action and requires agencies to describe those impacts to the decision-maker, the project applicant, and the public. It requires the agency to explain why it made a particular decision, what voluntary or enforceable mitigation efforts to reduce impacts below significance or measurable levels have been included in the decision, and what unavoidable environmental impacts may occur as a result of the decision. Preparation of the EA involved wildlife biologists, parks professionals, as well as other resource sources to assist in the determination if impacts existed and what mitigations were required.

The EA process used did inform the affected parties and allow sufficient time (fifty-three days in total) and a public meeting as a venue to receive comments. The amount of public comments is an indication that there was both time and opportunity for the public to be involved.

The level of analysis utilizing an Environmental Assessment process is consistent with similar projects of this complexity and scope. FWP believes that an EA is an appropriate level of analysis.

The Environmental Assessment Was Not Properly Prepared

Comment was received that the EA was incomplete or incorrect. The level of analysis was not sufficient and process was not properly followed. Several comments were made that this project was pre-determined and that the EA process was not valid.

Response: FWP followed the required MEPA process as required by 12.2.436 ARM after determining an EA was the proper level of analysis (see previous response). FWP disclosed the Department's intention to establish a state park with a campground in the Decision Noticed published for the acquisition of the Circle R Ranch in 2009. In this EA, FWP evaluated the proposed action of the Park's development and reasonable alternatives. If additional reasonable and feasible alternatives were suggested to FWP during the public comment period, FWP would have considered them (see response under Location) and evaluated their potential impacts to resources before making a final decision about the project. FWP considered public input it has received and after further analysis, likely level of impact in the following sections has been modified.

5b, c. Changes in the diversity or abundance of game animals or bird species; the diversity or abundance of nongame species. This will be minor rather than none. See responses in sections addressing wildlife and game bird enhancement area above.

6b. Exposure of people to severe or nuisance noise levels. This will be minor rather than none. Electricity will be provided in the campground to reduce generator noise. Public use regulations prohibit public disturbance and will be enforced in the park development.

Other sections of analysis remain the same as in the original EA.

FWP has considered all input in the decision and will do mitigation such as dust control, signage and actively managing the state park regarding public use and regulations. This project will have some impacts on the immediate area including increased public use and some displacement of wildlife. However, FWP will balance the opportunity for outdoor recreation with managing impacts on both the environment and neighboring landowners.

The exact costs, details and extent of a park development were not pre-determined, and not advanced until funding was appropriated and engineering and design began. It was intended, throughout the acquisition process, that a park development would be proposed and constructed if determined appropriate through this Environmental Assessment process.

Campground Development Not Adequately Addressed During Acquisition Process

Comments were received that the 2008 acquisition EA process did not mention the park development.

Response: The management plan section of the 2008 acquisition Environmental Assessment, the final acquisition Decision Notice and the revised management plan that was part of the Decision Notice referenced future development of a campground. This has been the intent from the earliest discussion of this property. Camping opportunities, for both

tent based and RV based visitors, is a primary function of a state park and highly desired by resident and non-resident visitors alike.

Bozeman Trail Road Impacts including Increased Traffic, Dust and Threats to Livestock

Dust resulting from traffic on the Bozeman Trail Road will adversely affect the neighbors including their health and livelihood. Because of the open range nature of the pasture along the road, cattle will be on the road, creating a safety hazard for drivers and potentially resulting in loss of livestock.

Response: FWP is completing a Road Evaluation Study as part of the sub-division review process required by Yellowstone County for development of a campground. This study will identify what improvements may be necessary for the road for safety and maintainability. Any issues associated with impacts of development of the road will be addressed through this process. FWP has made a commitment to providing dust control adjacent to the Rowe homesite.

Impact on Neighbors Including Security

The immediate neighbors and others voiced concerns about the campground development and the issues that increased use could potentially cause. These include health and security issues including shooting, exposure to more people, vandalism to adjacent properties, increased littering along the county road, and trespassing.

Response: The Bozeman Trail Road is currently a public road to the property boundary. There have been relatively few problems associated with the already substantial public use of the site, estimated at 500 cars per month during the summer months. The public is accessing public property, and other than the resulting road dust issue, it is not anticipated that the recreating public will cause impacts to the neighboring landowners.

Increased presence of personnel will accompany park development, including a park manager and park ranger, enforcement staff, maintenance staff and a resident park host. On the 54 state parks and 340 Fishing Access Sites, direct impacts from recreationists on neighboring properties has been minimal.

Staff will include assisting in cleaning trash along Bozeman Trail Road as part of their regular duties. Discharging of firearms is prohibited along roadways. Contacting FWP personnel in addition to county law enforcement will provide another option if there are recreationist-caused issues. Shooting is illegal from any public road including FWP roads and this will be actively enforced. Firearms closures in the campground and in other portions of the park property including the overlook area would prevent firearms discharge in these areas.

Campground noise should be confined to the campground area below the rimrocks, providing a sound barrier to neighboring properties. Discharging of weapons for legal purposes is an existing use on the WMA. The trees and vegetation along the river side of the development will help shield the south side of the river from campground noise.

Proposed Development will change the area culture

Comments were made that the proposal would change the area's characteristics and the local culture.

Response: The campground development will affect the immediate environment of development. There will be increased use on the public county road. The developed area will be contained in a relatively small area, considering the overall size of the property and the surrounding landscape. The intent of the development is to allow visitors to enjoy the natural setting and open space feel of the area in a well-managed location. The property was purchased with the intention for public use and in consideration of the resulting change in activity. The campground will be used primarily during the summer months, leaving the off-season for both a quieter experience and impacts similar to current use.

Public Safety

Comment was received regarding a perceived public safety threat caused by hunters on the WMA. There was a further concern that there would be pressure in the future to prohibit hunting because of this perceived threat.

Response: The location of the campground will be well signed at the entrance to the property. Hunters utilizing the WMA will be informed of the campground at parking areas and through the electronic and print information on the property. Likewise, campers will be informed at the campground information kiosk that there is hunting allowed upon adjacent lands. During hunting seasons, it is likely that most of the campers will be hunting and well aware of both activities and where they are occurring. It will be the responsibility of individual hunters to hunt in a safe manner. There are many campgrounds located in open hunting areas such as Forest Service and BLM lands. Through education and enforcement of regulations, this safety issue will be effectively managed.

Discharge of weapons and firearms will be prohibited in the developed campground on a year-round basis and on all other parklands, except for lawful hunting. The entirety of the WMA will remain open during established hunting seasons with no restrictions, including the lawful shooting of prairie dogs.

DECISION

After review of this proposal and considering both the significant public support for this project and the concerns and issues raised by some publics and neighboring landowners, it is my decision to adopt Alternative C; which is to proceed with development of the campground. FWP will not construct the overlook, comfort/shower building or playground at this time.

This proposal will be submitted to Yellowstone County for permitting under the sub-division review process as required by state law. Issuance of a sub-division permit will be necessary for the campground development to proceed.

The draft version of the EA, this Decision Notice, and the Management Plan developed during the acquisition phase serve as the final documents for this proposal.

APPEAL PROCESS

In accordance with FWP policy, an appeal may be made by any person who has either commented in writing to the department on the proposed project, or who has registered or commented orally at a public meeting held by the department on the proposed project, or who can provide new evidence that would otherwise change the proposed plan. An appeal must be submitted to the Director of FWP in writing and must be postmarked or received within 30 days of this decision notice. The appeal must describe the basis for the appeal, how the appellant has previously commented to the department or participated in the decision-making process, and how the department can provide relief. The appeal should be mailed to: Director, Fish, Wildlife & Parks, 1420 East 6th Avenue, Helena, MT 59620.

This decision notice along with the original EA and Management Plan will be posted on the FWP website www.fwp.mt.gov.



Doug Habermann
Regional Parks Manager
Billings, MT

June 25, 2010

DATE